IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition No. 6480 of 1999

Shri Vithal Karbhari Shelar
Aged 38 years, Occ:Service
r/o 395, New Ali, Nazirkarwads
A/P/T, Bhor 412206 Dist. Pune ..Petitioner

vs.

1. The State of Maharashtra
through the Secretary,
Urban Development Department
Mantralaya,Mumbai 400 032

2. The Director of Municipal
Administration, New Admini-
strative Building, 15th floor
Opp.Mantralaya, Mumbai 400 032

3. The Commissioner & Regional
Director, Municipal Administra-
tion, Pune Division, Vidhan
Bhavan, Pune 411 001

4. The District Collector, Pune

5. The Chief Officer
Bhor Municipal Council, Bhor
District Pune ..Respondents

Shri N.V.Bandivadekar for petitioner.
Shri R.M.Patne, A.G.P. for respondent nos. 1 to 4.
Shri K.V.Saste for respondent no.5.

CORAM: S.B.MHASE AND
D.G.KARNIK JJ.
23rd January, 2006

ORAL JUDGMENT:(Per D.G.Karnik J.)

1. Heard learned counsel for the parties.

2. By this petition, the petitioner

challenges the order dated 22nd February, 1999 issued by respondent no.2 - Director of Municipal Administration rejecting to sanction revised pay scale of Rs.2000 - 3200 to the petitioner in the post of overseer (Junior Engineer) on the establishment of respondent no.5.

3. The petitioner was appointed as an overseer (Junior Engineer) in Bhor Municipal Council which is the respondent no.5 herein. The petitioner was appointed in the pay scale of Rs.395 - 900 and after the IVth Pay Commission was granted the equivalent pay scale of Rs.1400 - 2300/- Learned Counsel for the petitioner submits that inm view of Govt. Resolution dated 11th August, 1995 the petitioner should be granted the payscale of Rs.2000 - 3200. The copy of the Govt. Resolution dated 11th August, 1995 vernacular copy of which is annexed as Exh. B to the petition. It records the decision of the Govt. which is to the following effect.

> "Junior Engineers employed in the Directorate of Town Planning under the Urban Development Department as

> on 1st April, 1981 as also the persons who will be appointed to the same post thereafter and who have completed the period of service as mentioned therein would be entitled to the designation of Gazetted Officer Class II (Lower Grade)," (the period of service necessary for conferring such grade has also been specified in the resolution.)

4. Learned counsel for the petitioner submits that the petitioner has completed necessary period of service mentioned in the said notification and, therefore, he should have been given the grade of Gazetted Officer Class II (Lower Grade). A bare perusal of the Government Resolution shows that the resolution is applicable only to Junior Engineers working in the Town Planning Directorate under the Urban Development Department of the Govt. of Maharashtra. The petitioner is not employed in the Town Planning Department of the Urban Development Department of the Govt. of Maharashtra but is employed in a Municipal Council. Obviously, therefore, the government resolution does not

cover him.

5. There is nothing on record to show that the duties of an overseer in Bhor Municipal Council are equivalent and similar to the duties of a Junior Engineer employed in the Town Planning Department of the Government of Maharashtra.

6. Learned Counsel for the petitioner had on thatd date submitted that another employee working in Akkalkot Municipal Council as an overseer (Junior Engineer) was granted the pay scale of Rs.2000 - 3200. In view of this submission by order dated 10th January, 2006 we had directed the Govt. to file an affidavit explaining why the Director of Municipal Administration had sanctioned the higher pay scale to the overseer employed in Akkalkot Municipal Council and refused to sanction the same to the petitioner. Accordingly Shri Nandkishor D.Burade, Assistant Director of Municipal Administration has filed an affidavit dated 20th January, 2006. In so far as differential payscale sanctioned to the overseer employed in Akkalkot Municipal Council in higher payscale

and not granting similar pay scale to the petitioner, it is stated that the incumbent in Akkalkot Municipal Council was previously occupying the post in the higher payscale of Rs.600 - 900 prior to Bhole Pay Commission and in order to protect his salary he was given the equivalent pay scale of Rs.2000 - 3200 as per IVth Pay Commission and it was done only to protect his salary. It was specifically made clear in the order dated 14th March, 1997 that after the person working on that post retired or any other person occupied the post forany other reason whatsoever the payscale of that post would be Rs.1400-2300 i.e. the same as that of the petitioner. It is thus clear that there has been no hostile discremination made qua the petitioner. It is not the case of the petitioner that overseers employed in any other Municipal Councils have been granted higher payscale. Only instance of Akkalkot Municipal Council was has been pointed out and the reasons for the same have been satisfactorily explained in the affidavit. We are thus satisfied that no dissimilar treatment has been given to different Municipal Councils.

7. The main grievance of the petitioner that he is entitled to the higher payscale under the Govt. Resolution dated 11th August, 1995 has already been negatived by us as we are of the view that petitioner is not covered by the said resolution.

8. In the circumstances, the petition fails and the Rule is accordingly discharged with no order as to costs.

(D.G.KARNIK J.) **(S.B.MHASE J.)**